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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 150626556-5886-02]

RIN 0648-BD81

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South
Atlantic Region; Amendment 8; Correction**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correcting amendment.

SUMMARY: NMFS corrects the final rule that implemented management measures described in Amendment 8 to the Fishery Management Plan for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (FMP) (Amendment 8), which published in the **Federal Register** on July 17, 2015. The Amendment 8 final rule contained some incorrect waypoints for the Oculina Bank Habitat Area of Particular Concern (HAPC) (Oculina Bank HAPC) as well as incorrect language regarding the gear stowage requirements for vessels with rock

shrimp onboard transiting through the Oculina Bank HAPC. The purpose of this correcting amendment is to fix these errors.

DATES: This correction is effective [*insert date of publication in the FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Karla Gore, 727-824-5305; e-mail: *karla.gore@noaa.gov*.

SUPPLEMENTARY INFORMATION: On July 17, 2015, NMFS published a final rule in the **Federal Register** (80 FR 42423) to implement provisions for Amendment 8, that expands portions of the northern and western boundaries of the Oculina Bank HAPC and allows transit through the Oculina Bank HAPC by fishing vessels with rock shrimp onboard; modifies vessel monitoring systems (VMS) requirements for rock shrimp fishermen transiting through the Oculina Bank HAPC; expands a portion of the western boundary of the Stetson Reefs, Savannah and East Florida Lithotherms, and Miami Terrace Deepwater Coral HAPC (Stetson-Miami Terrace CHAPC), including modifications to shrimp access area 1; and expands a portion of the northern boundary of the Cape Lookout CHAPC. The purpose of the final rule is to increase protection for deepwater coral based on new information for deepwater coral resources in the South Atlantic. The final rule was effective August 17, 2015.

The regulatory text in the Amendment 8 final rule in § 622.224(b) (1) contains three waypoints that were incorrectly listed for describing the Oculina Bank HAPC. These waypoints were correctly identified in Amendment 8 but were incorrectly converted to the coordinate format used for the proposed and final rules for Amendment 8. The incorrect waypoints are the origin point and points 7 and 8 for the Oculina Bank HAPC.

Additionally, the proposed and final rules for Amendment 8 incorrectly described the gear stowage provisions for vessels transiting the Oculina Bank HAPC with rock shrimp onboard. The regulatory text in the Amendment 8 final rule in § 622.224 (b) (1) (i) (C) states that appropriate stowage for shrimp trawl fishing gear includes the trawl doors and nets being out of the water and onboard the vessel deck or below deck. However, as described in the Amendment 8, the correct gear stowage for the trawl doors and nets is to have the doors and nets out of the water. Requiring the trawl doors and nets to be on deck was contrary to the intent of the South Atlantic Fishery Management Council (Council) and not consistent with Amendment 8.

This notification corrects the table in § 622.224(b) (1) with the correct coordinates and corrects the gear stowage language in § 622.224(b) (1) (i) (C) by incorporating the necessary language from Amendment 8 back into the regulations.

Correction

As published, the final rule for Amendment 8, published on July 17, 2015 (80 FR 42423), incorrectly listed three waypoints for the Oculina Bank HAPC and incorrectly described gear stowage language for vessels transiting the area. Coordinates are added to § 622.224(b) (1) and language is revised in § 622.224(b) (1) (i) (C) to correct these errors.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this correcting amendment is necessary for the conservation and management of South Atlantic coral resources and is consistent with Amendment 8, the FMP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

This correcting amendment has been determined to be not significant under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b) (B), the Assistant Administrator for Fisheries, NOAA, finds good cause to waive prior notice and opportunity for additional public comment for this action because it would be impracticable and contrary to the public interest. This correcting amendment corrects the positions for the Oculina Bank HAPC and the associated gear stowage provisions that were incorrectly described in the final rule. Providing prior notice and opportunity for public comment is contrary to the public interest because not correcting the waypoints will

cause confusion among the affected fishers and will not properly protect the Oculina Bank HAPC. With regard to the gear stowage requirements, not correcting these regulations will require fishers to comply with gear stowage methods that are not those recommended by the Council. The Council developed the gear stowage requirements in coordination with the affected fishers and these stowage requirements represent a safer approach for these fishers given the offshore conditions they may encounter. It would be impracticable to subject this action to notice and comment because the provisions of Amendment 8 are currently in effect and any delay in implementation of this rule would further any confusion that exists on the location of the waypoints and the gear stowage requirements.

For the same reasons, the Assistant Administrator also finds good cause, pursuant to 5 U.S.C. 553(d), to waive the 30-day delay in effective date for this correcting amendment. If this rule is not implemented immediately, it would cause confusion among the affected fishers of the location of the waypoints for Oculina Bank HAPC, would result in inadequate protection of the Oculina Bank HAPC, and require fishers to comply with gear stowage methods that were not recommended by the Council.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law,

the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. Accordingly, no Regulatory Flexibility Analysis is required and none has been prepared.

List of Subjects in 50 CFR Part 622

Coral, Coral Reefs, Fisheries, Fishing, HAPC, Shrimp, South Atlantic.

Dated: September 30, 2015.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

Accordingly, 50 CFR part 622 is corrected by making the following correcting amendments:

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.224, entries 7 and 8 in the table in paragraph (b)(1) and paragraph (b)(1)(i)(C) are revised to read as follows:

§ 622.224 Area closures to protect South Atlantic corals.

* * * * *

(b) * * *

(1) * * *

Point	North lat.	West long.
* * * * *		
7	28°56'01.86"	80°08'53.64"
8	28°52'44.40"	80°08'53.04"
* * * * *		

* * * * *

(i) * * *

(C) Fish for or possess rock shrimp in or from the Oculina Bank HAPC, except a shrimp vessel with a valid commercial vessel permit for rock shrimp that possesses rock shrimp may transit through the Oculina Bank HAPC if fishing gear is appropriately stowed. For the purpose of this paragraph, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of five knots as determined by an operating VMS and a VMS minimum ping rate of 1 ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water.

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